

BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for Approval  
of Tribal-State Compact Key Employee  
Finding of Suitability for:

Joshua Jose Madrigal  
Applicant.

CGCC Case No. GCADS-TRKE-015578

**DEFAULT DECISION AND ORDER**

Hearing Date: Thursday, June 10, 2021  
Time: 10:00 a.m.

1. This matter was scheduled for hearing before the California Gambling Control Commission (Commission) pursuant to Business and Professions Code sections 19870 and 19871 and Title 4, California Code of Regulations (CCR) section 12060, in Sacramento, California, on Thursday, June 10, 2021 at 10:00 a.m.

2. Joshua Jose Madrigal (Applicant) failed to appear and was not represented at the hearing.

**FINDINGS OF FACT**

3. On or about July 9, 2020, the Bureau of Gambling Control (Bureau) received an Application for Approval of Finding of Suitability Tribal Key Employee from Applicant.

4. On or around February 12, 2021, the Bureau issued its Tribal Key Employee Renewal Background Investigation Report in which it concluded that Applicant was disqualified for licensure pursuant to Business and Professions Code section 19859. The Bureau recommended that the Commission deny Applicant's application.

5. On or about March 3, 2021, the Commission's Executive Director considered Applicant's application and elected to refer it to an evidentiary hearing pursuant to Title 4, CCR section 12060, subdivision (a).

6. Applicant received notice of Commission consideration of Applicant's application in several ways. First, Commission staff mailed an evidentiary hearing referral letter to Applicant's address of record via regular mail and certified mail on March 3, 2021 which

1 included a blank Notice of Defense form with instructions to return it to the Commission within  
2 21 days of service or else the Commission may issue a default decision. Commission staff  
3 received no response. (Exhibit A)

4 7. Second, Applicant further received notice of the hearing through a hearing notice  
5 sent certified mail on April 27, 2021 to Applicant's address of record which included Exhibit A  
6 and stated that the hearing was set to occur on Thursday, June 10, 2021 at 10:00 a.m.

7 **DETERMINATION OF ISSUES**

8 8. An application to receive a license constitutes a request for a determination of the  
9 applicant's general character, integrity, and ability to participate in, engage in, or be associated  
10 with, controlled gambling. (Bus. & Prof. Code § 19856, subd. (b).)

11 9. In addition, the burden of proving Applicant's qualifications to receive any license  
12 from the Commission is on the applicant. (Bus. & Prof. Code § 19856, subd. (a).)

13 10. At an evidentiary hearing pursuant to Business and Professions Code sections  
14 19870 and 19871 and Title 4, CCR section 12060 the burden of proof rests with the applicant to  
15 demonstrate why a license should be issued. (Cal. Code Regs., tit. 4, § 12060, subd. (i).)

16 11. An application will be denied if the Commission finds that the applicant has not  
17 satisfied the requirements of Business and Professions Code section 19857. (Cal. Code Regs., tit.  
18 4, § 12040(a)(1).)

19 12. Title 4, CCR section 12052, subdivision (c), provides in pertinent part:

20 (c) An applicant for any license, permit, finding of suitability,  
21 renewal, or other approval shall be given notice of the meeting at which the  
22 application is scheduled to be heard. Notice shall be given pursuant to  
Section 12006.

23 \* \* \*

24 (2) If the application is to be scheduled at an evidentiary  
25 hearing, pursuant to subsections (a) or (b) of Section 12060, the  
notice of hearing shall inform the applicant of the following:

26 \* \* \*

27 (F) The waiver of an evidentiary hearing, failure of the  
28 applicant to submit a Notice of Defense, or failure by the  
applicant to appear at an evidentiary hearing, may result in

1 a default decision or a hearing without applicant  
2 participation in accordance with Section 12057.

3 13. Title 4, CCR section 12057, subdivision (a), provides in pertinent  
4 part:

5 (a) When an applicant fails to submit a completed Notice of Defense,  
6 CGCC-ND-002 (Rev. 12/18) according to the timelines on the form,  
7 affirmatively waives his, her, or its right to an evidentiary hearing, or  
8 he, she, or it fails to appear at an evidentiary hearing, the  
9 Commission will, based on the interests of justice and judicial  
10 economy:

11 (1) Issue a default decision after the consideration of the Bureau  
12 report, any supplemental reports by the Bureau, and any other  
13 documents or testimony provided or which may be provided to the  
14 Commission before the decision is issued;

15 14. The Commission takes official notice of the Bureau report, any supplemental  
16 reports by the Bureau and any other documents or testimony already provided to it in this matter  
17 as required by Business and Professions Code section 19870, subdivision (a) and Title 4, CCR  
18 section 12052, subdivision (c)(2)(F).

19 15. The Commission has jurisdiction to adjudicate this case by default.

20 16. The Commission may deny Applicant's application based upon the Bureau report,  
21 any supplemental reports by the Bureau and any other documents or testimony already provided  
22 to it, pursuant to CCR sections 12052, subdivision (c)(2)(F) and 12057, and Business and  
23 Professions Code sections 19857 and 19859.

24 17. The Commission may further also deny Applicant's application based upon  
25 Applicant's failure to prove to the Commission Applicant is qualified to receive a license or other  
26 approval as required by Business and Profession Code section 19856, subdivision (a) and Title 4,  
27 CCR section 12060(i).

28 18. Therefore, as the Applicant did not return a Notice of Defense form, did not attend  
the default hearing, and did not submit any information or evidence in favor of granting  
Applicant's Application, Applicant did not meet Applicant's burden of demonstrating why a  
license should be issued pursuant to Business and Professions Code section 19856(a) and Title 4,  
CCR section 12060(i). By failing to meet Applicant's burden of proving Applicant's

1 qualifications for licensure, Applicant has failed to satisfy the Commission that Applicant is a  
2 person that is in all other respects qualified to be licensed pursuant to Business and Professions  
3 Code section 19857(c). As a result, the Commission finds that pursuant to California Code of  
4 Regulations, Title 4, sections 12040, subdivision (a)(1), 12052, subdivision (c)(2)(F), and 12057,  
5 Applicant's Application is subject to denial.

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NOTICE OF APPLICANT’S APPEAL RIGHTS

Applicant has the following appeal rights available under state law:

Title 4, CCR section 12064, subdivision (a) and (b) provide, in part:

(a) After the Commission issues a decision following a GCA hearing conducted pursuant to Section 12060, an applicant denied a license, permit, registration, or finding of suitability, or whose license, permit, registration, or finding of suitability has had conditions, restrictions, or limitations imposed upon it, may request reconsideration by the Commission within 30 calendar days of service of the decision, or before the effective date specified in the decision, whichever is later.

(b) A request for reconsideration shall be made in writing to the Commission, copied to the Bureau, and shall state the reasons for the request, which must be based upon either:

- (1) Newly discovered evidence or legal authorities that could not reasonably have been presented before the Commission’s issuance of the decision or at the hearing on the matter; or,
- (2) Other good cause which the Commission may decide, in its sole discretion, merits reconsideration.

Business and Professions Code section 19870, subdivision (e) provides:

A decision of the commission denying a license or approval, or imposing any condition or restriction on the grant of a license or approval may be reviewed by petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of the Code of Civil Procedure shall not apply to any judicial proceeding described in the foregoing sentence, and the court may grant the petition only if the court finds that the action of the commission was arbitrary and capricious, or that the action exceeded the commission's jurisdiction.

Title 4, CCR section 12066, subdivision (c) provides:

A decision of the Commission denying an application or imposing conditions on a license shall be subject to judicial review as provided in Business and Professions Code section 19870, subdivision (e). Neither the right to petition for judicial review nor the time for filing the petition shall be affected by failure to seek reconsideration.

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**ORDER**

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1. JOSHUA JOSE MADRIGAL's Application for Approval of Tribal-State Compact Key Employee Finding of Suitability is DENIED.

2. JOSHUA JOSE MADRIGAL may not apply to the Commission or the Bureau for any type of license, registration or work permit for one (1) year after the effective date of this Order.

This Order is effective on Monday, July 12, 2021.

Dated: 6/10/21

Signature: 

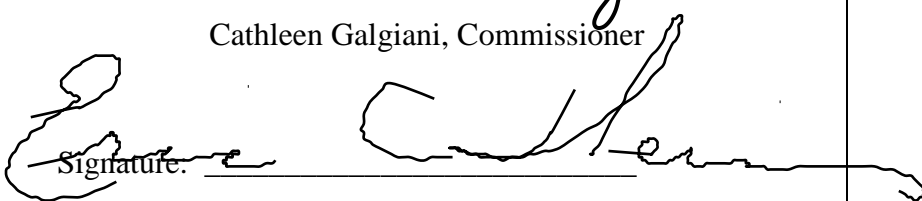
Paula LaBrie, Chair

Dated: 6/10/21

Signature: 

Cathleen Galgiani, Commissioner

Dated: 6/10/21

Signature: 

Eric Heins, Commissioner

Dated: 6/10/21

Signature: 

Edward Yee, Commissioner

**DECLARATION OF SHANA MARQUEZ**

I, Shana Marquez, declare as follows:

I am employed by the California Gambling Control Commission as an analyst in the Commission's Licensing Division. Joshua Madrigal's case has been assigned to me for processing.

On March 3, 2021, I mailed a Gambling Control Act hearing referral letter to Joshua Madrigal at [REDACTED] by regular mail and certified mail pursuant to California Code of Regulations (CCR) Title 4, Division 18, Chapter 1, section 12006. This letter provided notice to Joshua Madrigal that consideration of his application was being referred to a Gambling Control Act hearing pursuant to CCR, Title 4, Division 18, Chapter 1, section 12060(a). This letter included a Notice of Defense form (CGCC-CH1-03) with instructions to return the Notice of Defense to the Commission within 21 days of receipt in order to preserve their right to an administrative hearing.

Today is April 5, 2021, and I have not received the Notice of Defense form or any communication from Joshua Madrigal regarding a request for a Gambling Control Act hearing.

I declare under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct.

Executed on April 5, 2021, in Sacramento, California.



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Shana Marquez